

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 03-0199P

Sales Tax

Period September 2002 through March 2003

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the late filing penalty.

STATEMENT OF FACTS

The late filing penalty was assessed on the late filing of monthly sales tax returns for the period September 2002 through March 2003.

The taxpayer is a refrigeration service company located out-of-state.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer requests the penalty assessment be waived due to the situation that the error was the result of an inadvertent omission.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The Department finds the taxpayer did not act with reasonable care in that the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the taxpayer's penalty protest is denied.

FINDING

The taxpayer's penalty protest is denied.